

# A LETTER

ADDRESSED TO

THE RT. HON. THE COMMITTEE OF THE HOUSE OF  
LORDS, SITTING ON THE MASTERS' JURISDICTION ;

ALSO FOR THE CONSIDERATION OF THE TWO HOUSES OF PARLIAMENT

BATH, *July 28th*, 1851,

MY LORDS,

Under a hope that the respectful communication of my experience as a Suitor in the Court of Chancery, (and Heir-at-Law to one of a Family long distinguished in the Naval annals of our Land,) may assist the Committee of the House of Lords now sitting on an enquiry into the Jurisdiction of the Masters in Chancery, I am induced for the better protection of the afflicted and cruelly treated Lunatic Wards of that Court to break from a retirement more congenial to my own feelings, and give a greater publicity to the practice of the administration of the two Masters in Lunacy and the board of Chancery Lunatic Visitors than has hitherto been made, not doubting that they ought all to be removed, or that all their proceedings should be in public, and a more extensive power given to them proportioned to the vast extent of property, and the rank and character of the afflicted individuals connected with it.

The consideration of this branch of the Chancery Masters' duties is of the utmost importance if only to clear the character of the Masters and the Board of Visitors, for while sixty out of a hundred Pauper Lunatics are restored to health, and twenty-seven out of a hundred of Lunatics placed in Lunatic Asylums kept by private individuals, recover, not one in five hundred Chancery Lunatics are ever restored to their property, their family, or their home: although, a talented author states, "it is now known that insanity "is as curable as any disease to which mankind are subject; that "it arises from deranged bodily functions, not mental affections, "and that by kindness and proper medicine, there is less difficulty "in removing this malady than many others of which juster notions "have been long entertained by the faculty."

Dr. Scott, the late Naval Surgeon at Haslar Hospital, (see p. 55, of his Lectures,) says, "that it is exceeding rare, to find a man in-

“sane on many points at one period, and never on all points,” so that the agony of the educated Wards of Chancery when turned over to the tender mercies of *irresponsible strangers* who receive the whole allowances granted for their maintenance—who place their own creatures around these victims—who exclude the relatives from visiting them, or place them at their will in Lunatic Asylums, is surely a subject for the most serious enquiry.

Of the individuals denominated Committees there are two classes—Committees of the Estate, and Committees of the person. The parties thus called, seldom I believe exceed two to the Estate, and two to the person of each Lunatic, and are appointed by directions of reference from the Lord Chancellor to the Masters, who most absurdly have the sole approval of the Committees. The Lord Chancellor may object to a person approved of by the Master, but cannot appoint a Committee. The late Lord Cottenham recommended the Master to re-appoint A., one of the Committee, the Master refused. A. appealed, but found the Lord Chancellor had no power to appoint him. The practice of the Court has been to view with jealousy the nearest of kin, who have generally been excluded from being Committees, although most interested in protecting the Estate as well as the Lunatic. Lawyers and Doctors find that they can make it too lucrative a concern to let it escape through their hands; and the Masters, from the difficulty of finding other honorable persons willing to undertake an office so undefined, have been driven to accept persons from those professions as Committees. The Committee of the Estate has to pass the accounts before the Master, or his Secretary, every year; this is done in a most imperfect manner, for the accounts only detail what the Committee receives, and what he disburses, *but not what is due*. Take the following example—a Committee has to pass his account on the 1st of February, he neglects to receive the January Dividend, and by not being obliged to bring it into the account which he then presents, when he afterwards receives the January Dividend, he retains it in his own hands until the following year. Mr. Brougham required Committees to state what Dividends were payable, and would not allow accounts to be passed without the Committees *stated also what was due*, and first brought into their accounts the Dividends that could be obtained. A Solicitor and



the Mother were Committee to the late Sir G— P— T—, we can easily understand how lucrative an advantage it must have been, if he, as a professional man, availed himself of this practice tolerated in the passing of the accounts of Wards in Chancery.

A Solicitor who is Trustee of £100, refuses to pay the interest to the Lunatic's Estate, and though this is annually represented to the Master, he connives at it, on account of the expense that would attend a Petition to the Lord Chancellor.

The expense of passing the accounts is so great, that the Master sometimes allow them to be passed only once in two years. This expense is occasioned by Committees being obliged to bring in their accounts by Solicitors, instead of *themselves appearing* with it before the Masters or their Clerk; but this is the practice in all the Masters' offices in Chancery. The presenting of this simple debit and credit account annually to the Masters, is an expense to the 530 or 560 Chancery Lunatics of between eight and ten thousand a year, of which above one-third is paid as fees to the Masters in Lunacy, and which might be wholly avoided or otherwise appropriated to the Lunatics' benefit. In addition to the above sum, there is in this particular office one per cent. charged upon the income of all Chancery Lunatics, which realizes considerably above three thousand a year.

Also in Lunacy affairs a higher scale of fees for the office copies is charged than in the other Chancery offices, and they now charge fourpence a folio for what the Law Stationers charge three halfpence. Another source of expense is, the numberless and useless warrants charged on these occasions to the Lunatics' Estate.

The Committee of the person is sometimes chosen from the nearest of kin; but in many instances Solicitors and Medical Men are selected, being recommended by the Master to the Lord Chancellor, frequently against the wishes of the majority of the relatives. The Masters have a most difficult task to select Committees owing to the system of affidavit, instead of *viva voce* evidence. The Committee of the person, upon being appointed, are awarded at the Masters' recommendation a sum out of the income for the maintenance of the Lunatic—this allowance the Committee receive, as a Schoolmaster does a sum for the care of a lad. The Lord Chancellor may discharge a Committee, but his

Lordship, under the existing law, (as decided in the case of *Drax versus Grosvenor*) cannot require an account of the money which they withhold from disbursing upon the Lunatic. A Master once appointed himself Committee to the person of a wealthy Lunatic, but the Court of late years has prohibited that, although there is nothing to prevent them appointing their own relatives and friends.\* Indeed it is very natural for them to do so, because, exclusive of the means afforded to their friends of improving their incomes, the Masters may believe they will take better care of their Lunatics than any one else. The extent of this patronage may be surmised by a reference to the Parliamentary Paper, No. 505 of this year.

In 1843 the Masters had to appoint 28 Committees.

44	...	...	30	„
45	...	...	20	„
46	...	...	23	„
47	...	...	31	„
48	...	...	18	„
49	...	...	30	„

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180

All the cognisance taken by the Court of Chancery of the money entrusted to Committees will be understood by the following Extracts from the annual accounts of the Committee of the Estate of two different Lunatics.

“Retained for the Committee of the person, on account of “twelve months’ maintenance, at the Rate of £374 per annum :

“From the 1st of February 1850, to January

“30, 1851	...	...	... £374	0	0
“Pocket money at the rate of £20 per annum...			20	0	0
“For clothes at the rate of £30 per annum	...		30	0	0

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“424 0 0”

But not a single voucher of this expenditure is produced, although applied for when appearing before the Master, and whether the whole or half the money is laid out, is not enquired into. Again in another case :

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\* Though other Masters have done so the present Masters would not, I am persuaded, exercise that power.



“Retained on account of two years’ maintenance

“from November 1848, to November 1850.

“at the allowance of £400 per annum\*... £800 0 0”

The same Parliamentary paper shews that to these persons an income of £65,000 was entrusted in various amounts for the care of the 180 persons made Lunatic Wards of Chancery during that period. These individuals possess an authority greater than that of a father over an infant, for, as I already stated, they render no pecuniary account of what they disburse to any earthly being, not even to the Court which appointed them, while the extent of liberty or restraint is solely with them—they can send the Invalid to any Asylum they please, without consulting the heir at law, or the Lord Chancellor’s visitors in Lunacy, they can keep him in the house of a Medical Man objected to by the Invalid himself, as well as by his nearest relatives,—they go further,—they clothe him as they please—they dole out, according to their liberality, the few shillings he may solicit permission to disburse, or be allowed out of his fortune, and as they have the selecting of the persons by whom the Invalid is surrounded, they control a mass of evidence which enables them, under the plea of its producing excitement, to discard relatives from the house of the Invalid, to prevent him seeing his friends, or to have any communication, even by Letter, with any of them; they refuse him permission even to go to the house of a brother, when that brother is willing to receive him, nor has the Masters any power to grant the wishes of the Lunatic against the fiat of the Committee. It can only be obtained by petition to the Chancellor.

Few of the Committees disburse *more than two-thirds* of the allowance for maintenance on the Invalid entrusted to their care, many of them less, and none ever restore these victims to the society from which they were intended only to be temporarily removed. Of the 537 Chancery Lunatics, 238 are placed by the Committees of the person in Lunatic Asylums, others in private

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\* In this instance the allowances are larger than the income, but on account of the heavy expense of applying to the Court, the Master discountenances any application to have the allowances reduced within the income, and has made a compromise with the Committee, which Committee, consists of a Solicitor, and a Medical Man, who do not disburse all which they receive upon the Lunatic for maintenance.

residences. A few only are living with their relatives or friends.

This is the position of the Chancery Lunatics, and the four following returns will give an insight of their numbers—the vast and annual amount of their real property—the allowances granted to Committees for maintenance—and, the number of those who have been made Lunatic Wards of Chancery, but whose fortunes were not ascertained, and the allowance for maintenance fixed. So dilatory are these nominations of Committees, that at this moment there is a Lady at Bath without a Committee being appointed, who was made a Lunatic Ward of Chancery eighteen months since, while the useless expence attending it is a source of great oppression; the extent of such arrears of business will be seen in the returns, from which the following extracts are made, and shew the miserable state of Legislation under the present arrangements.

Years.		Number of Wards of Chancery, whose Incomes are known.		Number of Arrears of those whose allowances were not fixed by the Court.
1832	...	386	...	43
1833	...	399	...	48
1839	...	494	...	61
1849	...	531	...	39

RETURN, dated 5th June, 1832 (the first of the Returns to Parliament) of the number of Lunatics confined under the authority of the Lord Chancellor.

109 Lunatics, whose Property amounts to less than £200 per annum each :

Total annual amounts of such property ..... £11,210 14 3

254 Lunatics whose Property amounts to £200 each per ann. and upwards :

Total annual amounts of such property ..... 264,464 14 7

43 Lunatics whose income is not ascertained.

£275,675 8 10

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386

A RETURN, (dated 7th March, 1833), made up to the latest possible period, of the number of Lunatics confined under the authority of the Crown, and of the Total Amount of their Annual Incomes.

There are 399 Lunatics, confined under the authority of the Crown, the Total of whose Annual Incomes amounts to .....£269,158 1 9

Of which number there are :

57 who individually have less than £100 per annum, and whose incomes amount to ..... 3,254 11 9

61 who have £100, and less than £200 per annum, and whose incomes amount to ..... 8,675 2 0

50 who have £200, and less than £200 per annum, and whose incomes amount to ..... 12,130 0 3



31	who have £300, and less than £400 per annum, and whose incomes amount to .....	10,050	15	10
152	who have £400 per annum, and upwards, and whose incomes amount to .....	235,047	11	11
	and			
48	whose incomes are not ascertained,			

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399		£269,158	1	9
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RETURN to an ORDER of the Honorable House of Commons, (dated 21st Feb. 1839). RETURNS made up to the latest possible period of the number of Lunatics against whom COMMISSIONS of LUNACY are now in force, and of the Total Amount of their Annual Incomes, and the Total Amount of the Sums allowed for their Maintenance,

	Income,	Maintenance.
86 Persons who individually have less than £100 per annum, and whose incomes amount to .....	£4654 15 10	
And the total of the sums allowed for their maintenance to.....		£4632 0 4
83 Who individually have more than £100, and less than £200 per annum, and whose incomes amount to .....	11702 16 9	
And the total of the sums allowed for their maintenance to.....		8960 5 4
98 Who individually have more than £200 and less than £400 per annum, and whose incomes amount to .....	26567 6 1	
And the total of the sums allowed for their maintenance to.....		20728 4 8
49 Persons who individually have more than £400, and less than £600 per annum, and whose incomes amount to .....	24700 9 1	
And the total of the sums allowed for their maintenance to .....		17451 8 7
46 Persons who individually have more than £600, and less than £1000 per annum and whose incomes amount to .....	36195 13 7	
And the total of the sums allowed for their maintenance to ... ..		25764 7 0
71 Persons who individually have more than £1000 per annum, and whose incomes amount to .....	174170 11 11	
And the total of the sums allowed for their maintenance to .....		91551 14 9
Of the 494 persons above mentioned, many are recent cases, and the number where the fortune is not yet ascertained, and the allowance for maintenance fixed,		
61 is 61		
494	277991 13 3	169388 0 8

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20 June, 1839.

RETURN to an ORDER of the Honorable the House of Commons, (dated 28 August, 1848.) RETURNS, made up to the latest possible period, of the number of Lunatics against whom COMMISSIONS of LUNACY are now in force, and of the Total Amount of their Annual Incomes, and the Total Amount of the Sums allowed for their Maintenance, (in continuation of Parliamentary Paper, No. 78, of Session 1839.

There are 531 persons against whom Commissions of Lunacy are now in force, and the total of whose Annual Incomes amounts to .....			333781	8	11	
And the total of the of the Sums allowed for their Maintenance to .....						213074 13 2
94	Of the above there are 94 who individually have less than £100 per Annum, and whose Incomes amount to		5594	6	6	
	And total amount of the Sums allowed for their Maintenance to .....					5228 3 7
106	Who individually have more than £100, and less than £200 per Annum, and whose Incomes amount to.....		15176	11	10	
	And the total of the Sums allowed for their Maintenance to.....					13099 4 4
104	Who individually have more than £200 and less than £400 per Annum, and whose Incomes amount to.....		30214	7	11	
	And the total of the Sums allowed for their Maintenance.....					23500 19 10
63	Who individually have more than £400 and less than £600 per Annum, and whose Incomes amount to.....		30033	18	11	
	And the total of the Sums allowed for their Maintenance to.....					23452 17 0
51	Who individually have more than £600 and less than £1000 per Annum, and whose Incomes amount to.....		39125	3	0	
	And the total of the Sums allowed for their Maintenance.....					26672 3 0
74	Who individually have more than £1000 and whose Incomes amount to.....		213637	0	9	
	And the total of the Sums allowed for their Maintenance to.....					121121 5 5
39	Whose Incomes have not yet been ascertained, nor their maintenance fixed					
531			£333781	8	11	213074 13 2

N.B. The above Return comprises *all existing Lunatics* by *Inquisition*, without reference to any former Parliamentary Paper.

(Signed) THOMAS CARTLEDGE,

February 27th, 1849.

Secretary of Lunatics to the Lord Chancellor.

All of these returns are out of print, and the last was ordered, but has never been printed by the House of Commons, so that the members of the two Houses of Parliament are kept in ignorance of these startling facts.

Nothing is more unfortunate than the general confidence of the watchfulness of the Court of Chancery over this property; the whole process is as destructive, as it is visionary, and certain expence with possible ruin must attend any person who attempts to protect his invalid relative, by Petition to the Lord Chancellor.



A. petitioned Lord Cottenham that a reference might be made to the Master to enquire into the actual state of his brother, and whether a milder course than that pursued might be beneficial to the Lunatic.—Lord Cottenham refused the application with costs against A, which amounted to £120. This apparent injustice was most considerate of his Lordship, for had the Petition been granted it must have cost A., or the Estate, at least one thousand pounds. Upon the retirement of Lord Cottenham from office the Committee adopted successfully the course recommended by A. evidently fearing Lord Lyndhurst's humane interposition, who was supposed to be personally acquainted with the case.

Everything connected with this branch of the Lord Chancellor's duty as Guardian, after the Committee has been appointed, is conducted with the secrecy of the tribunal of the Roman Catholic inquisition, no Reporters being permitted in the Master's Office, and even relatives being excluded, except the heir at law, and he is said to be allowed to be present, not by right, but by suffrage. In these remarks I beg respectfully to repudiate the remotest intention of any personal attack upon the honor of the Lord Chancellor, the Masters, or their Subordinates, it is the precedents upon which they are bound to act, that I would expose—for they all tend, as regards Lunacy, to vitiate justice, perpetuate invalids, wards of Chancery, and encourage cruelties which are a stain on the Jurisprudence of a Christian Land.

This was felt by Lord Brougham who in 1833 introduced a Bill dated 24th of July, to diminish the expence of Commissions in the nature of Writs *de Lunatico inquirendo* and to provide for the better care of Lunatics. Under it, authority is given to the Lord Chancellor to appoint, as Visitors of Lunatics, three persons, two of whom shall be Physicians, and one a Barrister of not less than five years standing. Also, a Secretary, with Salaries and expences as follows :

Two Physicians £500 a year each	...	£1000	0	0
One Barrister, at	...	300	0	0
One Secretary - ...	...	300	0	0
For an Office and general expences	...	300	0	0
		<hr/> £1900 0 0		

Exclusive of travelling expences, which might be allowed by the Lord Chancellor.

By a Return ordered July 8, 1851, it appears there was paid to this Board.

From June 1844 to January 1845	...	£3268	14	0
„ 1845 „ 1846	...	3043	8	0
„ 1846 „ 1847	...	3009	16	0
„ 1847 „ 1848	...	2839	10	0
„ 1848 „ 1849	...	2756	0	0

The Act further says, that each of such persons so found Lunatic shall be visited at least once a year, by one of such Medical Visitors, who, after such visitation shall respectively make a Report to the Lord Chancellor, in writing, of the state of mind, and bodily health and general condition, and of the care and treatment pursued to each such person visited, which Reports are to be duly filed and kept secret in the office of such Visitors, and shall be open to the inspection of *no person whatever, except* the said Visitors, their Secretary and the Lord Chancellor, or such as the Lord Chancellor shall appoint,

This Bill was passed in 1833 when the number of Chancery Lunatics was 386, their numbers now are about 550.

The Board consists of Dr. Southey, Dr. Bright, Mr. Phillimore, Barrister, and Mr. Enfield their Secretary, who, when the Masters in Lunacy were appointed, became also Chief Clerk to them, with a Salary of £800 a year, in addition to the £300 he previously had.

It must be evident *these two Medical Gentlemen in general practice*, cannot be expected to watch over the care and treatment of the 531 Chancery Lunatics, nor do they pretend to do so. The Board is constructed for the purpose of assisting the Lord Chancellor, but it is not paid to *regulate the treatment* or watch over the expenditure of the Committees, beyond mentioning in the 531 Reports, the state in which they find the Lunatics; nor with such salaries can more be expected of them.

If all men were taught that none were exempted from this malady, on adequate existing causes being applied, such an opinion might be useful, by inducing them to reflect on the possibility of their becoming the victims of its humiliating influence, as in the



cases of Lords Liverpool, Castlereagh, Ward, and others of both Houses of Parliament; and might lead to the real amelioration of the treatment of Lunatic Wards of Chancery. Nothing is more cruel and unnecessary than that of sending any person possessed of wealth to the ordinary Lunatic Asylums, where he is compelled to witness scenes, and encounter degradations, in the way of society and otherwise; tending not only to retard his recovery, but to render his malady permanent. Yet there are 238 of the Lunatic Wards of Chancery so treated. The money annually paid for their maintenance, without further additional expense, would amply enable a Board and the two Masters in Lunacy, (if adequate powers only were given, under the authority of the Lord Chancellor,) to place them all at Asylums solely appropriated to Wards of Chancery, under the care of medical men who would have an interest not in continuing them there, but in restoring them to society. Detached cottages for convalescents might surround these dwellings, and means of attending public worship afforded.

With respect to the present selection of Committees and their powers, your Lordships will find the whole system leads to crime, to cruelty, and to fraud; and such powers should only be confided to officers appointed by the Lord Chancellor or the Government, with fixed salaries, and through whose hands not a sixpence should pass, but who should see that the allowances belonging to the Lunatic Wards of Chancery are not, as at present, diverted to selfish purposes, and withheld from their rightful but helpless owners.

Other suggestions will no doubt occur to your Lordships, although, upon these points, every humane Legislator can have but one opinion. Nevertheless, the question arises, whether the Lord Chancellor has not the power, had he but the time, to remove these abuses? Whether his Lordship might not refuse to appoint Committees, (or to continue the persons now acting as such,) who did not undertake to produce before the Masters, in future, such voucher of their expenditure as the Masters might require. His Lordship might order no Chancery Lunatic to be permitted to be removed to any Asylum, except such as were under the surveillance of his own officers. Out of the present inefficient Board he might create an efficient one, by selecting two medical men not in gene-

ral practice, to devote their whole time to watch over the moral and physical treatment of Chancery Lunatics. The two present Masters in Lunacy are men of high honor, zeal, and integrity, but not having from the Legislature or the Lord Chancellor sufficient authority, their situations are not so useful as they wish them to be, or are capable of being made, and which powers, had Lord Lyndhurst (to whom the country is so much indebted for his improvement of this branch of Legislature,) continued in office, would no doubt have been conferred upon them. The whole jurisdiction in Lunacy should be given to the Masters, with right of appeal only to the Lord Chancellor.

These are matters, my Lords, in which "each must pity, and where all must feel."

And in closing these hasty remarks, permit me respectfully to say, that the various duties and legal questions emanating from ten millions of property belonging to Lunatics thus under the Guardianship of the Crown, must, when adequately provided for, afford ample occupation for any judge, however splendid his talents, while the enormous expence of the present unhealthy system of Affidavit evidence, and the unexampled powers of Committees, so far from sparing the feelings of the noblest families of the land, only tend to absorb their property, and further expose the affliction under which they labour.

It is, my Lords, after years of procrastinated endurance, that I with dutiful submission, offer these facts to your Lordships' dispassionate consideration.

I have the honor to be,

MY LORDS,

Your Lordships' most obedient humble servant,

A SUITOR IN CHANCERY.